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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
Matthew Weiss,

Plaintiff,

--against--

Early Warning Services, LLC

Defendant.
-----X

COMPLAINT

21-CV-00608

The plaintiff, MATTHEW WEISS, by his counsel, RAYMOND NARDO, P.C., brings this action against defendant EARLY WARNING SERVICES, LLC, alleges, as follows:

PRELIMINARY STATEMENT

1) This is an action for actual, statutory, and punitive damages and counsel fees and costs brought pursuant to 15 U.S.C. § 1681 *et seq.* (“Fair Credit Reporting Act” or “FCRA”), and New York General Business Law § 380 *et seq.* (the “New York Fair Credit Reporting Act” or “NY FCRA”).

JURISDICTION AND VENUE

2) This court has federal question jurisdiction under 15 U.S.C. § 1681(p). This Court has supplemental jurisdiction of those state law claims asserted herein under 28 U.S.C. § 1367(a).

- 3) Venue is proper pursuant to 28 U.S.C. § 1391(b).

PARTIES

4) Plaintiff is an individual residing in Ronkonkoma, NY and is a “consumer” within the meaning of the FCRA, 15 U.S.C. § 1681a(c).

5) Defendant EARLY WARNING SERVICES, LLC is an Arizona corporation, duly authorized and qualified to do business in the State of New York.

6) Defendant EARLY WARNING SERVICES, LLC is a “consumer reporting agency” within the meaning of the FCRA as set forth in 15 U.S.C. § 1681a(f).

7) Defendant EARLY WARNING SERVICES, LLC is a “consumer reporting agency” within the meaning of the e NY CRA as set forth in NY GBL § 380-a(e).

8) Trans Union LLC sells its “EARLY WARNING SERVICES, LLC Credit Report and Score” to consumers.

FACTUAL BACKGROUND

9) The plaintiff was a victim of identity theft, whereby a third party opened multiple fraudulent credit and other accounts in Plaintiff’s name, which caused negative information of opened and unpaid or delinquent accounts to appear on Plaintiff’s credit reports.

10) On November 16, 2020 and December 3, 2020, Plaintiff completed Police reports detailing that fraudulent checking accounts from Santander and Wells Fargo were taken out in his name, based on identity theft.

11) Plaintiff never authorized nor utilized the subject accounts, nor did he benefit from their use in any manner.

12) Plaintiff also notified each of the creditors that identity thieves opened these accounts

without his consent.

13) As required by 15 U.S.C. § 1681c-2(a), Defendant immediately blocked these items within 4 days.

14) Pursuant to 15 U.S.C. § 1681c-2(c), Defendant was not permitted to lift the block unless:

- a) the information was blocked in error or a block was requested by the consumer in error;
- b) the information was blocked, or a block was requested by the consumer, on the basis of a material misrepresentation of fact by the consumer relevant to the request to block; or
- c) the consumer obtained possession of goods, services, or money as a result of the blocked transaction or transactions.

15) As set forth above, there was no reason to remove or rescind the block because the accounts were the product of identity theft.

16) Defendant EARLY WARNING SERVICES, LLC failed or refused to reasonably investigate Plaintiff's claims of identity theft, after being notified of this on several occasions, and knowingly or negligently reported fraudulent information on Plaintiff's credit report,

17) The fraudulent information adversely affected Plaintiff's credit rating and impaired Plaintiff economically and non-economically.

18) The fraudulent information on plaintiff's credit reports prevented him from opening checking accounts, including mortgage licenses and credit cards.

19) Despite Plaintiff's attempts to have these fraudulent accounts blocked and removed from his credit reports, Defendant refused to conduct a reasonable investigation of the disputed accounts, and refused to remove those accounts from the plaintiff's credit report, repeatedly, in violation of the

FCRA and NY FCRA.

20) As a result of Defendant's refusal to block, reasonably investigate, or remove the subject fraudulent accounts from the plaintiff's credit reports, the plaintiff has suffered significant damages including, but not limited to, denials of checking accounts, denials of mortgage licenses, damage to his reputation, emotional distress, aggravation, wasted time, embarrassment, and frustration.

21) Defendant's actions and inactions, contrary to the FCRA and NY CRA, lowered Plaintiff's credit score and caused him to pay a higher rate of interest on loans and caused other damages as set forth herein.

AS AND FOR A FIRST CAUSE OF ACTION

22) Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

23) EARLY WARNING SERVICES, LLC prepared, compiled, issued, assembled, transferred, published, and otherwise reproduced numerous consumer reports regarding plaintiff, as that term is defined in 15 U.S.C. § 1681a(d).

24) All credit bureaus were required to block, investigate, and later remove, the fraudulent information from Plaintiff's credit report.

25) Although properly notified about inaccurate information and identity theft concerning Santander and Wells Fargo, Defendant did not continue the block/remove the inaccurate and fraudulent information from Plaintiff's credit bureau, in violation of the FCRA.

26) EARLY WARNING SERVICES, LLC willfully (or, in the alternative, negligently) failed to maintain and/or follow reasonable procedures to assure maximum possible accuracy of the information it reported to one or more third parties pertaining to the plaintiffs or in credit reports

supplied to third parties, in violation of 15 U.S.C. § 1681e(b).

27) Defendant willfully (or, in the alternative, negligently) failed to review and consider all relevant information submitted by the plaintiff regarding his dispute in violation of 15 U.S.C. § 1681i(a)(4).

28) Defendant willfully (or, in the alternative, negligently) failed to review and consider all relevant information submitted by the plaintiff regarding his dispute in violation of 15 U.S.C. § 1681c-2(c).

29) Defendant EARLY WARNING SERVICES, LLC willfully (or, in the alternative, negligently) violated 15 U.S.C. § 1681i(a)(5) by failing to delete or modify the disputed derogatory information from the plaintiff's file after failing to verify the completeness and accuracy of that information.

30) Defendant published Plaintiff's credit reports on multiple occasions containing negative and inaccurate information after the plaintiff disputed the information. The inaccurate reports caused the plaintiff economic harm via checking account denials, limiting his opportunities for credit, resulting in the denial of mortgage licenses, damaging his reputation ability to obtain mortgage licenses, and causing him emotional distress.

31) Defendant is thus liable to the plaintiff for actual, statutory, economic, non-economic, and punitive damages in an amount to be determined by the trier of fact, as well as the plaintiff's reasonable attorney's fees and costs pursuant to 15 U.S.C. §§ 1681n and 1681o.

AS AND FOR A SECOND CAUSE OF ACTION

32) Plaintiff repeats and realleges each and every allegation as though fully set forth herein.

33) Defendant EARLY WARNING SERVICES, LLC prepared, compiled, issued,

assembled, transferred, published, and otherwise reproduced numerous consumer reports regarding plaintiff, as that term is defined in NY GBL § 380-a(c)(1).

34) Such reports erroneously contained fraudulent, delinquent accounts that did not belong to the Plaintiff.

35) Defendant knew, or should have known, that its Credit Reports contained erroneous information about Plaintiff's credit, as set forth above, in violation of NY GBL § 380-j(a)(3).

36) Defendant EARLY WARNING SERVICES, LLC willfully (or, in the alternative, negligently) failed to maintain reasonable procedures designed to assure maximum possible accuracy of their reports, in violation of NY GBL 380-j(e).

37) Defendant EARLY WARNING SERVICES, LLC willfully (or, in the alternative, negligently) violated NY GBL § 380-f by failing to conduct a reasonable reinvestigation of the plaintiff's disputes of the fraudulent accounts.

38) Defendant EARLY WARNING SERVICES, LLC published credit reports regarding the plaintiff on multiple occasions which erroneously contained fraudulent and delinquent account that did not belong to the plaintiff, causing the plaintiff economic harm via checking account denials, rejection of mortgage licenses, limiting his opportunities for credit, and damaging his reputation and causing him emotional distress.

39) Defendant is thus liable to the plaintiff for actual, statutory, economic, non-economic, and punitive damages in an amount to be determined by the trier of fact, as well as the plaintiff's reasonable attorney's fees and costs pursuant to NY GBL §§ 380-l and 380-m.

40) Plaintiff demands trial by jury.

WHEREFORE, Plaintiff respectfully prays for judgment against Defendant as follows:

- a. That this court award the Plaintiff actual damages, compensatory damages, statutory damages, economic damages, non-economic damages, punitive damages, and counsel fees for each cause of action under the FCRA, and enjoin Defendant from any further violations;
- b. That this court award the Plaintiff actual damages, compensatory damages, statutory damages, economic damages, non-economic damages, punitive damages, treble damages, and counsel fees, for each cause of action under the NY GBL, and enjoin Defendant from any further violations;
- c. Counsel fees, disbursements, and costs pursuant to the FCRA and NY GBL and;
- d. Any such other and further relief as this court deems necessary and proper.

Dated: February 4, 2021
Mineola, NY

Respectfully submitted,

RAYMOND NARDO, P.C.

By: 

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